



## DEPARTMENT OF LABOR

### Employment and Training Administration

Labor Certification Process for the Temporary Employment of Aliens in Agriculture in the United States: 2012 Adverse Effect Wage Rates.

**AGENCY:** Employment and Training Administration, Department of Labor.

**ACTION:** Notice.

**SUMMARY:** The Employment and Training Administration (ETA) of the Department of Labor (Department) is issuing this notice to announce the 2012 Adverse Effect Wage Rates (AEWRs) for the employment of temporary or seasonal nonimmigrant foreign workers to perform agricultural labor or services (H-2A workers).

AEWRs are the minimum wage rates the Department has determined must be offered and paid by employers to H-2A workers and workers in corresponding employment for a particular occupation and area so that the wages of similarly employed U.S. workers will not be adversely affected. 20 CFR 655.100(b). In this notice, the Department announces the AEWRs for 2012.

**EFFECTIVE DATE:** This notice is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** William L. Carlson, Ph.D., Administrator, Office of Foreign Labor Certification, U.S. Department of Labor, Room C-4312, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone: 202-693-3010 (this is not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

The U.S. Citizenship and Immigration Services of the Department of Homeland Security will not approve an employer's petition for the admission of H-2A nonimmigrant temporary agricultural workers in the U.S. unless the petitioner has received from the Department an H-2A labor certification. The labor certification provides that: (1) there are not sufficient U.S. workers who are able, willing, and qualified and who will be available at the time and place needed to perform the labor or services involved in the petition; and (2) the employment of the foreign worker(s) in such labor or services will not adversely affect the wages and working conditions of workers in the U.S. similarly employed. 8 U.S.C. 1101(a)(15)(H)(ii)(a), 1101(a)(15)(H)(ii)(b), 1184(c)(1), and 1188(a); 8 CFR 214.2(h)(5) and (6).

#### Adverse Effect Wage Rates for 2012

The Department's H-2A regulations at 20 CFR 655.120(l) provide that employers must pay their H-2A workers and workers in corresponding employment at least the highest of: (i) the AEWR; (ii) the prevailing wage; (iii) the prevailing piece rate; (iv) the agreed-upon collective bargaining wage, if applicable; or (v) the Federal or State minimum wage, in effect at the time the work is performed.

Except as otherwise provided in 20 CFR part 655, subpart B, the region-wide AEWR for all agricultural employment (except those occupations deemed inappropriate under the special procedure provisions of 20 CFR 655.102) for which temporary H-2A certification is being sought is equal to the annual weighted average hourly wage rate for field and livestock workers (combined) for the region as published annually by the United States Department of Agriculture (USDA). 20 CFR 655.120(c) requires the Administrator of the Office of Foreign Labor Certification publish the USDA field and

livestock worker (combined) wage data as AEWRs in a Federal Register notice.

Accordingly, the 2012 AEWRs to be paid for agricultural work performed by U.S. and H-2A workers on or after the effective date of this notice are set forth in the table below:

TABLE -- 2012 ADVERSE EFFECT WAGE RATES

<b><u>State</u></b>	<b><u>2012 AEWRs</u></b>
Alabama	\$9.39
Arizona	\$9.94
Arkansas	\$9.30
California	\$10.24
Colorado	\$10.43
Connecticut	\$10.56
Delaware	\$10.34
Florida	\$9.54
Georgia	\$9.39
Hawaii	\$12.26
Idaho	\$10.19
Illinois	\$11.10
Indiana	\$11.10
Iowa	\$11.50
Kansas	\$11.61
Kentucky	\$9.38
Louisiana	\$9.30
Maine	\$10.56

Maryland	\$10.34
Massachusetts	\$10.56
Michigan	\$10.78
Minnesota	\$10.78
Mississippi	\$9.30
Missouri	\$11.50
Montana	\$10.19
Nebraska	\$11.61
Nevada	\$10.43
New Hampshire	\$10.56
New Jersey	\$10.34
New Mexico	\$9.94
New York	\$10.56
North Carolina	\$9.70
North Dakota	\$11.61
Ohio	\$11.10
Oklahoma	\$9.88
Oregon	\$10.92
Pennsylvania	\$10.34
Rhode Island	\$10.56
South Carolina	\$9.39
South Dakota	\$11.61
Tennessee	\$9.38

Texas	\$9.88
Utah	\$10.43
Vermont	\$10.56
Virginia	\$9.70
Washington	\$10.92
West Virginia	\$9.38
Wisconsin	\$10.78
Wyoming	\$10.19

Pursuant to the H-2A regulations at 20 CFR 655.173, the Department will publish a separate Federal Register notice in early 2012 to announce (1) the allowable charges for

2012 that employers seeking H-2A workers may charge their workers for providing them three meals a day; and (2) the maximum travel subsistence reimbursement which a worker with receipts may claim in 2012.

Signed in Washington, D.C. this 6<sup>th</sup> day of December, 2011.

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Jane Oates  
Assistant Secretary,  
Employment and Training Administration.

Billing Code: 4510-FP-P

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